

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

LEODIS RANDLE,
#25064-009

Plaintiff,

v.

DOE

Defendant.

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No. 4:19cv00010-SWW-JJV

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Susan Webber Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION


Leodis Randle (“Plaintiff”) is incarcerated at the Houston Federal Detention Center and filed this action *pro se* pursuant to 42 U.S.C. § 1983. (Doc. No. 1.) Plaintiff is a “three striker.” (Doc. No. 3.) He alleges that on December 26, 2018, the “court clerk” deliberately caused a document to be filed in 4:18-cv-00188-BRW when the document should have been filed in 4:18-cv-00622-JM, which caused delay and “problems for both cases.” (Doc. No. 1.) Because his allegations did not indicate imminent danger of serious physical injury, on January 7, 2019, I directed Plaintiff to file the statutory filing fee of \$400.00 within fourteen days. (Doc. No. 3.) Plaintiff was warned that his failure to do so would result in the dismissal of this action without prejudice. (*Id.*)

More than fourteen days have passed since the January 7 Order was entered and Plaintiff has not paid the filing fee. Plaintiff filed a Response to the Order in which he makes numerous allegations against the “court clerk.” (Doc. No. 4.) Nothing in Plaintiff’s Response, however, indicates imminent danger of serious physical harm. Accordingly, I recommend that this action be dismissed without prejudice.

IT IS, THEREFORE, RECOMMENDED that:

1. Plaintiff's Complaint (Doc. No. 1) be DISMISSED without prejudice.
2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations and the accompanying Judgment would not be taken in good faith.

DATED this 30th day of January 2019.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE